

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

PATRICIA HERNANDEZ

VS.

SAM'S EAST, INC.

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§  
§  
§  
§

CIVIL ACTION NO.: 21-CV-956

JURY DEMANDED

**DEFENDANT'S NOTICE OF REMOVAL**

Defendant, Sam's East, Inc. files this Notice of Removal pursuant to 28 U.S.C. § 1441, as follows:

**Commencement and Service**

1. On August 30 2021, Plaintiff, Patricia Hernandez commenced this action against Sam's East, Inc. by filing Plaintiff's Original Petition in the 438<sup>th</sup> District Court of Bexar County, Texas, Cause No. 2021CI17972; *Patricia Hernandez v. Sam's East, Inc. d/b/a Sam's Wholesale Club*. A copy of Plaintiff's Original Petition is attached hereto as **Exhibit A**. Sam's East, Inc. received service of process and Plaintiff's Original Petition on September 10, 2021. A copy of the Return of Service and Citation is attached hereto as **Exhibit B**.

2. On October 1, 2021, Sam's East, Inc. filed its Original Answer to Plaintiff's Original Petition which is attached as **Exhibit C** and Demand for Jury Trial, attached as **Exhibit D**.

3. This notice of removal is filed within thirty days (30) of the receipt of the Plaintiff's Original Petition which discloses that this matter involves an amount in controversy exceeds \$75,000.00 and is timely filed under 28 U.S.C. § 1446(b). This notice of removal is filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(b).

**Grounds for Removal**

4. Walmart Inc. is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship. (See page 2, IV., second paragraph of Plaintiff's Original Petition – Exhibit A).

**Diversity of Citizenship**

5. This is an action between parties with diversity of citizenship.

6. Plaintiff is a citizen of Texas.

7. Defendant Sam's East, Inc. is an Arkansas corporation with its principal place of business in Bentonville, Arkansas. Based on the forgoing, Defendant, Sam's East, Inc. is a citizen of Arkansas.

8. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists among the parties.

**Amount in Controversy**

9. The amount in controversy exceeds the sum of \$75,000. (See page 2, IV., second paragraph of Plaintiff's Original Petition – Exhibit A).

**Venue**

10. Venue lies in the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the Plaintiff filed the state court action in this judicial district and division.

**Notice**

11. Contemporaneous with the filing of this notice of removal, Defendant will give notice of this filing to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with

the clerk of the state court, and will serve upon Plaintiff's counsel and all other parties' counsel of record, a notice of the filing of this notice of removal.

**Jury Demand**

12. Defendant, Sam's East, Inc. demanded a jury trial in the state court action.

**State Court Pleadings**

14. Copies of state court pleadings which are referenced within the Notice are attached to this Notice of Removal as **Exhibits A through F**. This case is being removed from the 438th Judicial District Court of Bexar County, Texas.

**Exhibits to Notice of Removal**

15. The following documents are attached to this Notice as correspondingly lettered exhibits:

- A. Plaintiff's Original Petition and Request for Disclosure.
- B. Return of Service and Citation,
- C. Defendant's Original Answer to Plaintiff's Original Petition.
- D. Defendant's Demand for Jury Trial.
- E. Case Summary.
- F. List of Counsel of Record.

WHEREFORE, Defendant, Sam's East, Inc. pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 438<sup>th</sup> Judicial District Court of Bexar County, Texas.

Respectfully submitted,

DAW & RAY  
A LIMITED LIABILITY PARTNERSHIP

/s/ James K. Floyd

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**ATTORNEY FOR DEFENDANT,  
SAM'S EAST, INC.**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record in accordance with the FRCP on this the 8<sup>th</sup> day of October, 2021.

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**ATTORNEYS FOR PLAINTIFF**

/s/ James K. Floyd

James K. Floyd